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SENATE BILL 831

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Richard M. Romero

AN ACT

RELATING TO PUBLIC EMPLOYEES RETIREMENT; AMENDING A SECTION OF
THE PUBLIC EMPLOYEES RETIREMENT ACT TO CHANGE THE TYPES OF
INVESTMENTS AUTHORIZED FOR STATE RETIREMENT TRUST FUNDS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 10-11-132 NMSA 1978 (being Laws 1987,
Chapter 253, Section 132, as amended) is amended to read:

"10-11-132. INVESTMENT OF FUNDS--TYPES OF INVESTMENTS--
INDEMNIFICATION OF BOARD MEMBERS.--The funds created by the
state retirement system acts are trust funds of which the
retirement board is trustee. Members of the retirement board
jointly and individually shall be indemnified from the funds by
the state from all claims, demands, suits, actions, damages,
judgments, costs, charges and expenses, including court costs
and attorney fees, and against all liability losses and damages

underscored material = new
[bracketed material] = delete

1 of any nature whatsoever that members shall or may at any time
2 sustain by reason of any decision made in the performance of
3 their duties pursuant to the state retirement system acts. The
4 retirement board may invest and reinvest the funds in the
5 following classes of securities and investments:

6 A. bonds, notes or other obligations of the United
7 States treasury or those guaranteed by or for which the credit
8 of the United States government is pledged for the payment of
9 the principal and interest;

10 B. bonds, notes or other obligations of a
11 municipality or other political subdivision of this state that
12 are registered by the United States securities and exchange
13 commission, are publicly traded and are issued pursuant to a
14 law of this state if the issuer, within ten years prior to
15 making the investment, has not been in default in payment of
16 any part of the principal or interest on any debt evidenced by
17 its bonds, notes or other obligations. If any bonds are
18 municipal or county utility revenue bonds or utility district
19 revenue bonds, the revenues of the utility, except for
20 operation and maintenance expenses, shall be pledged wholly to
21 the payment of the interest and principal of the indebtedness
22 and the utility project shall have been completely self-
23 supporting for a period of five years next preceding the date
24 of investment;

25 C. stocks, bonds, debentures or other obligations

. 145370. 1

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1 issued by any agency or corporation of the United States
2 government under the authority of acts of the United States
3 congress;

4 D. collateralized obligations held in trust that:

5 (1) are publicly traded and are registered
6 with the United States securities and exchange commission; and

7 (2) have underlying collateral that is either
8 an obligation of the United States government or else has a
9 credit rating above or equal to BBB according to the Standard
10 and Poor's rating system or Baa according to the Moody's
11 investors rating system;

12 E. bonds, notes, commercial paper or other
13 obligations of any corporation organized and operating within
14 the United States [~~or preferred stock, common stock, any~~
15 ~~security convertible to common stock or American depository~~
16 ~~receipts that are registered by the United States securities~~
17 ~~and exchange commission of any corporations whose securities~~
18 ~~are listed on at least one stock exchange that has been~~
19 ~~approved by or is controlled by the United States securities~~
20 ~~and exchange commission or on the national association of~~
21 ~~securities dealers national market; provided that the~~
22 ~~corporations shall have minimum net assets of twenty five~~
23 ~~million dollars (\$25,000,000); or]; provided that the~~
24 securities shall have a minimum credit rating of [BBB] B
25 according to the Standard and Poor's rating system or [Baa] B

. 145370. 1

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1 according to the Moody's investors rating system or their
2 equivalents; and provided that not more than ten percent of the
3 funds for which the retirement board is trustee shall [not] at
4 any one time [own more than ten percent of the voting stock of
5 a company] be invested in debt obligations of corporations with
6 a credit rating less than BBB according to the Standard and
7 Poor's rating system or Baa according to the Moody's investors
8 rating system of their equivalents;

9 F. preferred stock, common stock, any security
10 convertible to common stock or American depository receipts
11 that are registered by the United States securities and
12 exchange commission of any corporation organized and operating
13 within the United States whose securities are listed on at
14 least one stock exchange that has been approved by or is
15 controlled by the United States securities and exchange
16 commission or on the national association of securities dealers
17 national market; provided that the corporations shall have
18 minimum shareholders' equity of twenty-five million dollars
19 (\$25,000,000) and that the funds of which the retirement board
20 is trustee shall not be invested in more than ten percent of
21 the voting stock of a company; and further provided that
22 investing with enhanced index managers using futures and
23 options is permitted solely for the purpose of adding
24 incremental value and controlling risk and not for speculation;

25 [F.] G. obligations of non-United States

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1 governmental or quasi-governmental entities, and these may be
2 denominated in foreign currencies; obligations, including but
3 not limited to bonds, notes or commercial paper of any
4 corporation organized outside of the United States, and these
5 may be denominated in foreign currencies; or preferred stock or
6 common stock of any corporation organized outside of the United
7 States whose securities are listed on at least one national or
8 foreign stock exchange or are traded in an over-the-counter
9 market, and these may be denominated in foreign currencies.
10 Currency transactions, including spot or cash basis currency
11 transactions, forward contracts and buying or selling options
12 or futures on foreign currencies, shall be permitted but only
13 for the purposes of hedging foreign currency risk and not for
14 speculation;

15 ~~[G.]~~ H. stocks or shares of a diversified
16 investment company registered under the federal Investment
17 Company Act of 1940, provided that the investment company has
18 total assets under management of at least one hundred million
19 dollars (\$100,000,000); individual, common or collective trust
20 funds of banks or trust companies, provided that the investment
21 manager has assets under management of at least one hundred
22 million dollars (\$100,000,000); provided that the board may
23 allow reasonable administrative and investment expenses to be
24 paid directly from the income or assets of these investments;

25 ~~[H.]~~ I. contracts, including contracts through its

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1 designated agent, for the temporary exchange of securities for
2 the use by broker-dealers, banks or other recognized
3 institutional investors, for periods not to exceed one year,
4 for a specified fee or consideration; provided no such
5 contracts shall be entered into unless the contracts are fully
6 secured by a collateralized, irrevocable letter of credit
7 running to the retirement board, cash or equivalent collateral
8 of at least one hundred two percent of the market value of the
9 securities plus accrued interest temporarily exchanged, which
10 collateral shall be delivered to the state fiscal agent or its
11 designee contemporaneously with the transfer of funds or
12 delivery of the securities; and further provided that such
13 contracts may authorize the retirement board to invest cash
14 collateral in instruments or securities that are authorized
15 investments for the funds and may authorize payment of a fee
16 from the funds or from income generated by the investment of
17 cash collateral to the borrower of securities providing cash as
18 collateral, and the retirement board may apportion income
19 derived from the investment of cash collateral to pay its agent
20 in securities lending transactions; and

21 ~~[I.]~~ J. contracts for the present purchase and
22 resale at a specified time in the future, not to exceed one
23 year, of specific securities at specified prices at a price
24 differential representing the interest income to be earned by
25 the retirement board. No such contract shall be entered into

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1 unless the contract is fully secured by obligations of the
2 United States, or other securities backed by the United States,
3 having a market value of at least one hundred two percent of
4 the amount of the contract. The collateral required in this
5 section shall be delivered to the state fiscal agent or his
6 designee contemporaneously with the transfer of funds or
7 delivery of the securities, at the earliest time industry
8 practice permits, but in all cases settlement shall be on a
9 same day basis. No such contract shall be entered into unless
10 the contracting bank, brokerage firm or recognized
11 institutional investor has a net worth in excess of five
12 hundred million dollars (\$500,000,000). "

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